

Notice of Allowability

Application No.

09/685,779

Examiner

Johnnie L. Smith II

Applicant(s)

LYONS ET AL

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE/amendment filed 10/21/2003.
 2. ☒ The allowed claim(s) is/are 5, 8-12 and 15-17.
 3. ☐ The drawings filed on _____ are accepted by the Examiner.
 4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
 6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- 1 ☒ Notice of References Cited (PTO-892)
- 2 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3 ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____
- 4 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 5 ☐ Notice of Informal Patent Application (PTO-152)
- 6 ☐ Interview Summary (PTO-413), Paper No. _____
- 7 ☒ Examiner's Amendment/Comment
- 8 ☒ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other

Jack R. Berman
JACK BERMAN
 PRIMARY EXAMINER

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Alan Koenck on 11/11/2003.

The application has been amended as follows:

Claim 12) A method of irradiating product, comprising: providing an electron beam having a controlled beam current; measuring the beam current of the electron beam; directing the electron beam onto product; measuring an intensity of [a] an x ray portion of the electron beam that passes through the product; calculating an intensity of the provided electron beam based on the measured beam current; and adjusting the beam current of the provided electron beam to adjust its intensity, based on a difference between the measured intensity of the x ray portion of the electron beam that passes through the product and the calculated intensity of the provided electron beam

Allowable Subject Matter

2. Claims 5, 8-12, and 15-17 are allowed.
3. The following is an examiner's statement of reasons for allowance: the prior art searched and cited failed to teach or fairly suggest an irradiation system having: a radiation source for providing an electron beam at a first controlled intensity the electron beam having a beam current and having at least an x-ray component with a second intensity that is proportional to the first intensity and a sensor system for measuring a third intensity of a portion of the x-ray component of the electron beam that passes through the product in combination with the rest claims 5, 11, or 16. Claims 8-10, and 17 are allowable because of their dependencies upon claims 5 or 16.
4. The prior art searched and cited failed to teach or fairly suggest a method of irradiating product, having steps of: providing an electron beam having a controlled beam current; measuring the beam current of the electron beam; and measuring an intensity of a portion of the electron beam that passes through the product in combination with the rest of claim 12. Claim 15 is allowable because of its dependencies upon claim 12.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should

preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US patents 6,628,750 (Korenev) September 2003, 6,608,882 (Allen et al) August 2003, and 6,617,596 (Korenev) September 2003. All of the cited US patents contain art similar to that being claimed by applicant, but would fail to qualify as prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnnie L Smith II whose telephone number is 703-305-0380. The examiner can normally be reached on Monday-Thursday 7-4 P.M. and Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on 703-308-4116. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Application/Control Number: 09/685,779
Art Unit: 2881

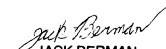
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



JLSII

Johnnie L Smith II
Examiner
Art Unit 2881


JACK BERMAN
PRIMARY EXAMINER